mind on the part of the third party toward some definite or indefinite quasi-principal. Accordingly it would seem that the quasi-agent must disclose the fact that he is acting in behalf of some one else, or, in other words, as the House of Lords decides, that for a valid ratification it is essential that the quasi-agent profess to act as agent.

"BOYCOTTS." — The case of *Allen* v. *Flood*, (1898) A. C. 1, has generally been regarded not only as representing the law in England on the subject of malicious interference with business, but also as laying down principles applicable to the whole law of torts. The correctness of the decision on its own facts can never be denied in England; but the recent case of *Quinn* v. *Leathem* (70 L. J. Rep. 76), also before the House of Lords, seems to diminish greatly its authority.

Leathem, a butcher, employed workmen who did not belong to the local trades union. Representatives of the union demanded that Leathem cease to employ these men. On his refusal, they by various means induced several of his customers, and also several of his workmen, to leave him; and thereby ruined his business. The most damaging measure taken by the union was to induce one of his principal customers, a butcher, named Munce, to cease taking meat from him, by threats that they would call out Munce's union employees. Leathem brought suit against several of the union leaders for wrongful interference with his business, and recovered damages. The verdict was sustained by the courts in Ireland, and finally by the House of Lords.

In *Allen* v. *Flood*, the plaintiffs were workmen who were objectionable to other men employed by the same firm. The defendant, a delegate of the union to which the latter workmen belonged, represented to the employers that unless the obnoxious men were dismissed all the men in his union would stop work. It was not clear whether the defendant merely communicated to the employers a resolution already formed by the members of the union to stop work unless the objectionable men were discharged, or whether he threatened that if the employers did not accede to his demands he would call the workmen out. In deciding *Quinn* v. *Leathem*, the lords take the former view, and treat the case as authority only for the proposition that a person who merely communicates facts, without using any threats, is acting lawfully, whatever his motives. It would seem, nevertheless, that the opinions of the majority in *Allen* v. *Flood* might well have been taken to lay down a doctrine broad enough to prevent recovery in a case like *Quinn* v. *Leathem*, except that they left open the question of the effect of a conspiracy. The Irish courts, in fact, thought it necessary to take advantage of the element of conspiracy to distinguish *Allen* v. *Flood*. The House of Lords, however, treating that case with less respect, decline to rest their decision on the sole ground of conspiracy, and avoid giving any precise definition of its effect. They treat the defendants' acts as illegal because they were intended to injure the plaintiff by ruining his business, and were of such a nature as the law would not under all the circumstances regard as justifiable, when so intended.

The case of *Allen* v. *Flood* may be treated in two ways. It may be regarded as an authority for a general view of the law of torts, that an act not otherwise unlawful cannot be rendered so far wrongful, by the

presence of an express intention to damage some person, as to make it necessary for a defendant to show a good motive by way of justification. It can hardly be doubted that Lord Herschell took some such view. See 11 HARVARD LAW REVIEW, 405. The result of the case, however, may be reached under the contrary theory of the law of torts, that every intentional infliction is actionable unless shown to be done with motives, or under particular circumstances, which the law treats as a justification. The aim of the defendant to strengthen his trades union may then be treated as a justification of his acts. It is presumably on this ground that Mr. Chief Justice Holmes, who has ably set forth the latter theory of torts in 8 HARVARD LAW REVIEW, 1, approved the decision of *Allen* v. *Flood* in his dissenting opinion in *Plant* v. *Woods*, 176 Mass. 492, 504.

The case of *Quinn* v. *Leathem* has a double effect. It effectually discredits the conservative view of the law of torts advocated by Lord Herschell. At the same time, it furnishes a weighty authority against the legality of the form of action by labor organizations commonly called a "boycott." It is to be regretted, however, that the opinions of the lords do not go farther towards giving some satisfactory criteria for the guidance of the courts, and of the public, in dealing with matters of such serious importance. R. G.

INTERSTATE COMMERCE AND THE COMMON LAW. — The question whether, in the absence of congressional legislation, a court has jurisdiction over interstate commerce has aroused much discussion. Some courts have held that there are no laws, except congressional enactments, which can affect such matters, and so long as Congress fails to act, interstate carriers are free to carry on their business as they please. *Swift* v. *Phila. & Reading R. R.*, 64 Fed. Rep. 59; 9 HARVARD LAW REVIEW, 217. On the other hand, it is said that there is in force throughout the country a national common law, which regulates the matter. *Murray* v. *C. & N. W. R. R.*, 62 Fed. Rep. 24; 8 HARVARD LAW REVIEW, 168. As it has been thought necessary to go to either one of these extremes, it will doubtless be generally assumed that a recent decision of the United States Supreme Court has settled the controversy in favor of a national common law. Although there is no congressional statute which applies, the plaintiff, in the case in point, obtained a judgment in a state court for unreasonable discrimination in rates for interstate business. This judgment was affirmed in the Federal Supreme Court, which held that the state court had sufficient jurisdiction and authority. *Western Union Teleg. Co.* v. *Call Publishing Co.*, 21 Sup. Ct. Rep. 561. A careful analysis of the opinion, however, shows that the decision is limited to the question of the liability of interstate merchants, and although the language of the court is very broad and general, it does not commit itself definitely concerning the existence of a general common law.

It is well that the question has been left open for further discussion, as neither of the prevailing theories seems satisfactory. It would be an unfortunate result to hold that interstate carriers have the commerce of the country at their mercy, and that these carriers may refuse to serve when they wish and may charge whatever they see fit. 7 HARVARD LAW REVIEW, 488. On the other hand, the objection may be raised that the common law in force in each state is adopted by the state itself. If there is a general common law, it must issue from some sovereign power,